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Friend, or Foe or Something Else: Social Meanings of Redress and Reparations

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I. INTRODUCTION

One billion dollars and an apology: reparations by the United States government for 60,000 surviving Americans of Japanese ancestry imprisoned during World War II without charges, trial or evidence of necessity.[1] Redress for lost homes, families, and freedom, for serious harm inflicted by a government upon its own people on account of their race.[2]

Who has benefitted from redress and reparations; who has been ignored? What freedoms have been protected; what obligations forsaken? What promises have been fulfilled; what illusions fostered? In what diverse ways may society come to understand redress and reparations for WWII Japanese American internees? Put another way: What are the evolving social meanings of the United States government's reparations law and program?[3]

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1. *See* 50 U.S.C. app. § 1989b-4(a)(1) (1988) (authorizing $20,000 payment to each surviving former internee).

2. This article discusses government reparations programs that redress group-based civil rights violations by governments against their own citizens. It does not address directly, but may shed some light upon, the other situation in which reparations is usually discussed: one country's payment to another country's people as compensation for violations of international human rights norms. The most recent example of this latter type of reparations is the call for Iraq to compensate the Kuwaiti people for the harm resulting from Iraq's "blatant violation" of international law in the occupation of Kuwait. Allan Gersen, *U.N. is Best Forum for War Trial*, and Charles Brower, *Make Saddam Pay Reparation, in Making the Case Against Saddam Hussein*, LEGAL TIMES, Feb. 4, 1991, at 10.

3. "Meanings" here is pluralized. Meanings are social constructions, dependent in part upon historical context and in part upon the power and interests of those ascribing the meanings and their relationship to the actors and events that are the subject of characterization. MARTHA MINOW, MAKING ALL THE DIFFERENCE 175-77 (1990); PATRICIA J. WILLIAMS, ALCHEMY OF RACE AND RIGHTS (1991). We cannot ask about the meaning or value of something without asking "from whose perspective?" Any event or action might accrue multiple and inconsistent meanings, or varying reach and impact. And those meanings may change over time. *See* Charles L. Black Jr., *The Lawfulness of the Desegregation Decisions*, 69 YALE L.J. 421, 424 (1960) (discussing the "social meaning" of segregation). This essay starts with the idea that "the law generally, and civil rights law in particular, not only imports rules of conduct, it signifies . . . structures of value and meaning." W. HARMICK, AN EXISTENTIAL PHENOMENOLOGY OF LAW: MAURICE MERLEAY PONTY 129-40 (1987).

Some of the meanings are salutary. Former WWII internees have benefitted in myriad ways — financially, culturally, emotionally. Some also say government and all of society have benefitted. Reparations are proof that the United States constitution works, that government is self-correcting, and that the American legal and political systems are essentially just. Still others say the United States has bolstered its moral foundation to command international allegiance to human rights. Its reparations program may be a model for other countries concerned about redemption for past wrongs. Those views are supported by generally-held assumptions and theories about the ameliorative effect of civil rights laws.[4]

But are these salutary views overstated? Or misguided? Do reparations laws inevitably engender institutional and attitudinal changes reflecting "lessons learned?" Or might redress and reparations ultimately aid in the perpetuation of institutional power structures and public attitudes that suppress freedom for those society views as different and vulnerable? Certain critical theories about law tend to support this latter view.[5]

The reparations program for WWII Japanese American internees is on-going, and the long-term effects of that program and the law creating it are largely undetermined. This essay sketches a framework for inquiring into the societal effects and values — the evolving meanings — of reparations. It first delineates conflicting salutary and critical views of reparations for WWII Japanese American internees and identifies divergent theories of civil rights laws underlying those conflicting views. It then offers in broad concept an additional basis for assessing impact and ascribing meaning — one that links past process to future action, acknowledging contingency in the construction of meaning; one that emphasizes minority perspectives on actual institutional and attitudinal restructuring.

This concept is described in the context of recent theories about the conflicting potential of civil rights laws, especially concerning issues of racial subordination. It suggests inquiry beyond reparations itself — inquiry into the non-reparations consequences over time of a reparations movement's political and legal processes. It suggests that a reparations law's salient meanings lie not in the achievement of payments and apologies to a particular group or in symbolic constitutional victories, but in the commitment of recipients and others to build upon the reparations process' inter-group linkages and political insights to contribute to broad-based institutional and attitudinal restructuring. Whether those commitments are made and acted upon may, and should, in principal part determine enduring social meanings of reparations.

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4. *See infra* notes 23-36, and accompanying text.
5. *See infra* notes 39-41 and accompanying text.

II. REPARATIONS FOR JAPANESE AMERICAN WORLD WAR II INTERNEES

The Japanese American redress movement provided more than reparations for former internees. It also provided political and legal insights into the breakdown of a democratic system of checks and balances during a time of national stress.

The redress movement's roots date back to the late 1960's when a second-generation Japanese American started a personal campaign of public education and legislative lobbying in support of reparations for former internees. That informal campaign, progressing slowly in fits and starts, gradually gained momentum, expanding its base through newly-formed university ethnic studies programs and engendering organizational support, media curiosity and legislative interest. Various groups, often at odds with one another, coalesced in general support of a national coalition for redress.[6]

Progress stalled in the late 1970's, however. The legal basis for reparations was ill-defined. Although many came to realize the historical "wrong" of the internment, public support for legislative reparations, and even support within the Japanese American communities, waned. Two events in the early 1980's galvanized the reparations movement. First, Japanese American congresspersons from California and Hawaii pushed through seemingly innocuous legislation creating a study commission. This commission, however, was anything but the commonplace congressional commission whose effect, if not purpose, is to delay and obscure. The commission's thorough and aggressive investigation unearthed new information and provided the solid factual record for reparations.[7]

The second event involved lawsuits: the *coram nobis* litigation in 1983 that reopened the WWII court cases challenging the constitutionality of the internment and the *Hohri* class action suit that sought damages for the internees' loss of freedom and property.[8] Toward the end of WWII the United States Supreme Court ruled in the infamous *Korematsu* case that the internment did not transgress the Fifth Amendment's Due Process clause, that "military necessity" justified it.[9] Fred Korematsu's legal

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6. The history of the Japanese-American redress and reparations movement is well-documented. *See*, e.g., WILLIAM MINORU HOHRI, REPAIRING AMERICA 37 (1988); PETER IRONS, JUSTICE LONG OVERDUE (1988).

7. REPORT OF CONGRESSIONAL COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS, PERSONAL JUSTICE DENIED (1983) (hereinafter CWRIC REPORT).

8. My view of reparations is situated by my participation in 1983 and 1984 on the legal team that litigated the reopening of Korematsu v. U.S., 323 U.S. 214 (1944) — the case that in 1944 upheld the constitutionality of the internment. The HOHRI class action was ultimately dismissed on statute of limitations grounds. Hohri v. United States, 586 F. Supp. 769 (D.D.C. 1984), *aff'd in part and rev'd in part* 782 F.2d 227 (1986), *vacated* 482 U.S. 64 (1987), *on remand* 847 F.2d 779 (1988), *cert. denied* 488 U.S. 925 (1988). While the suit was pending on appeal, its threat of a possible multibillion dollar recovery exerted pressure on Congress concerning reparations.

9. Korematsu v. United States, 323 U.S. 214 (1944).

challenge failed at that time, and the government imprisoned him for refusing to abide by the military's exclusion orders leading to the internment. That same case was reopened by Mr. Korematsu in 1983 through a highly unusual petition for a writ of *coram nobis*. Korematsu renewed his legal challenge on the basis of newly discovered, now declassified government documents from WWII which revealed three extraordinary facts: first, before the internment, all involved government intelligence services unequivocally informed the highest officials of the military and the War and Justice Departments that the west coast Japanese as a group posed no serious danger, and that there existed no justification for mass internment; second, the key west coast military commander based his internment decisions on invidious racial stereotypes about the inscrutable, inherently disloyal Japanese American; and third, the military, War and Justice Departments concealed and destroyed evidence and deliberately misled the Supreme Court in 1944 when it was considering the *Korematsu* case and the asserted military necessity justification for the internment.[10]

The Supreme Court in 1944 accepted as true the government's false statements about military necessity without close scrutiny — and with tragic consequences. The Court's unquestioning acceptance of racial stereotypes and false statements of necessity "not only legitimized the dislocation and imprisonment of loyal citizens without trial solely on account of race, but it also weakened a fundamental tenet of American democracy — government accountability for military control over civilians."[11] Justice Jackson, in his scathing dissent, pinpointed the dangerous latent legal principle of the 1944 *Korematsu* decision. "What the Court appears to be doing, whether consciously or not . . . [is] to distort the Constitution to approve all the military may deem expedient."[12]

The recent reopening of the *Korematsu* case,[13] with its revelations, highlighted the danger to citizens, and minorities particulary, of unscrutinized military and government national security power. That danger led the federal court hearing the case in 1984 to observe:

> As historical precedent [Korematsu] stands . . . as a caution that in times of distress the shield of military necessity and national security must not be used to protect governmental actions from close scrutiny and accountability. It stands as a caution that in times of international hostility and antagonisms our institutions, legislative, executive and judicial, must be prepared to exercise their authority [to enforce

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10. Eric K. Yamamoto, *Korematsu Revisted - Correcting the Injustice of Extraordinary Government Excess and Lax Judicial Review: Time for a Better Accommodation of National Security Concerns and Civil Liberties*, 26 SANTA CLARA L. REV. 1, 2, 24-26 (1986). *See also* PETER IRONS, JUSTICE AT WAR (1983).

11. Yamamoto, *supra* note 10, at 3.

12. *Id.*

13. Korematsu v. United States, 584 F. Supp. 1406 (N.D. Cal. 1984).

> constitutional guarantees] to protect all citizens from the petty fears and prejudices that are so easily aroused.[14]

The judicial decisions in the reopened *Korematsu* and related *Hirabayashi*[15] cases and the Congressional Commission's investigation and report in 1983[16] provided firm legal and factual bases for legislative reparations. Along with the *Hohri* class action, they helped galvanize a renewed reparations movement in the mid-1980's. Many former internees, for the first time, actively pushed for redress, joined by civil liberties groups. Public education programs and community fundraising efforts flourished. Other minority group organizations lent support. Japanese American congresspersons and others, after protracted debate, negotiated the civil rights legislation through Congress,[17] resulting in an apology by the President and a payment of $20,000 per surviving internee. Payments commenced in October of 1990.

Many rejoiced. Redress and reparations, and the process of obtaining them, were cathartic for former internees. A measure of dignity was restored. Former internees could finally talk about the internment. Feelings long repressed, surfaced. One woman, now in her sixties, stated that she always felt the internment was wrong, but that, after being told by the military, the President and the Supreme Court that it was a necessity, she had come seriously to doubt herself. Redress and reparations and the recent successful court challenges, she said, had now freed her soul.[18]

III. CONFLICTING VIEWS OF REDRESS AND REPARATIONS

Many former internees clearly have benefitted from redress and reparations. With that understanding as a starting point, we pose a broader inquiry: What are the evolving social meanings of governmental redress and reparations?[19] Multiple and sometimes colliding views are emerging.

A. *Salutary Views*

One view is that the United States Constitution works. Government, if pushed, eventually will do the right thing. This view implies that redress and reparations for WWII Japanese American internees is a symbolic victory for everyone. Government war and national security powers

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14. *Id.* at 1418. *See also* Note, *Developments in the Law — The National Security Interest and Civil Liberties*, 85 HARV. L. REV. 1130, 1134 (1972) (observing characteristic political branches' overestimated "threats to national security to the detriment of civil liberties").

15. Hirabayashi v. United States, 320 U.S. 81 (1943), *later proceeding* 627 F. Supp. 1445 (W.D. Wash. 1986), *aff'd in part, rev'd in part* 828 F.2d 591 (9th Cir. 1987). *See also* Minoru Yasui v. United States, 320 U.S. 115 (1943).

16. CWRIC REPORT, *supra* note 7.

17. *See generally* HOHRI, *supra* note 6.

18. This conversation with a Nisei (second generation) woman followed a public presentation by members of the Korematsu litigation team in Palo Alto, California, in May, 1984.

19. *See supra* note 3 for a definition of the term "meanings."

were ultimately brought within bounds. The democratic system of checks and balances, over time, worked.

A related message is that wrongs against a racial group in the United States can be made right. The government reaffirmed its commitment to fundamental freedoms for all citizens.[20]

Another salutary view is that reparations enabled the United States to demonstrate to other countries its commitment to human rights norms. That demonstrated commitment enhanced America's capacity to participate in resolving international human rights disputes.

A final salutary view is atonement and abrogation of societal guilt. The past has now passed, the slate wiped clean. American society is finally free to move forward. Implicit in this view is a notion peculiarly linked to American culture: money discharges moral obligation. Once you "pay off," you are morally freed.[21]

The collective message of these salutary views is that a democratic constitution and its political and legal systems are ultimately responsive to peoples' rights, including the freedoms of minorities. Societal mistakes can be transformed, however belatedly, into social progress. A society that rightfully repairs those it wrongfully harms has moral standing to assess other countries' allegiance to human rights norms. The United States, for example, as part of its contemplation of a free trade agreement with Mexico, is being encouraged to exert pressure upon the Mexican government to curb police and military torture of citizens.[22] The overall message conveyed by these salutary views is significant, and it reveals considerable value of a government program of reparations.

This message is enhanced by generally-held assumptions and theories about the ameliorative effect of civil rights "laws." In broad concept, laws, and especially legislation designed to prevent or remediate harm to society's less powerful or stigmatized, reflect a value consensus.[23] Certain types of discriminatory behavior should be prohibited, certain types of injuries redressed. That consensus about how things should be, reflected

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20. *See* HOHRI, *supra* note 6, at 225 ("We tend to invest our institutions with the responsibility for our freedoms. The redress movement, like the Constitution, violates this conventional view of American democracy. We believe that a small group, with little more than its remembered pain and desire to have its grievances redressed, can act to repair a breach in our democratic society. . . . Our movement has become part of our legacy to America, our contribution to American democracy.").

21. Critics of this notion "detect a certain commodifying vulgarity in throwing money at injured people. . . . Reparations, one could argue, promotes the idea that everyone has a price, that every wound is salved by cash." Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L. L. REV. 323, 394-95 (1987).

22. *See* Amnesty International Report, *Mexico: Torture with Impunity* (1991) (describing police and military torture of citizens).

23. *See* Kathleen M. Sullivan, *Rainbow Republicanism*, 97 YALE L. J. 1713, 1713-14 (1988) (critiquing the "republican revival in constitutional law" and its conception of politics as the "articulation of the common good" in a manner "compatible with the nurturance of 'social plurality' ").

in the law, will over time compel more or less conforming conduct.[24] *Brown v. Board of Education*'s[25] rejection of the separate-but-equal principle in 1954 led to the end of formal segregation in public facilities and accommodations. The federal Voting Rights Act[26] encouraged many African Americans to vote and run for office. Recognition of civil rights through legislation, executive pronouncements or court rulings is a societal victory — part of the difficult march toward equality and fairness in society. And benefits accrue from that recognition, both practical and symbolic. These assumptions and civil rights law theory, generally stated here, provide foundation for the salutary views of congressionally-authorized reparations for WWII Japanese American internees.

B. *Critical Views*

Salutary views, however, collide with critical ones. A principal criticism is that the salutary views described earlier are often conveyed from an unstated vantage point: mainstream America. What may further the general interests and serve the values of mainstream America, and the governmental structure that supports it, what may be a "societal victory," may in practical effect undermine the struggles and dreams of those outside the cultural mainstream.[27] Another, and related, criticism is that reparations legislation has the potential of becoming a civil rights law that at best delivers far less than it promises and that at worst creates illusions of progress, functioning as a hegemonic device to preserve the status quo.

These criticisms might be productively examined by asking two questions, one broad and one narrow, both stated from the vantage points of minority groups concerned about meaningful social structural and attitudinal changes: What has been the impact of governmental redress and reparations for WWII Japanese American internees (1) on the institutional and legal structure of government power to restrict fundamental freedoms of minorities in the United States, especially in the context of

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24. *See* Kimberle Williams Crenshaw, *Race, Reform and Retrenchment: Transformation and Legitimation in Anti-discrimination Law*, 101 HARV. L. REV. 1331, 1347-48 (1988). Crenshaw discusses popular public perceptions of and theories about the effects of civil rights reforms, quoting Alfred Blumrosen:

> "[T]he condition of black American[s] in 1985 is so much improved, as a result of the 1964 legislation. The success of the Civil Rights Act contained the seeds of its loss of public support. Racism alone simply will no longer do as an explanation for the current condition of depressed minorities. The rhetoric of the sixties sounds hollow to Americans of the eighties because it is hollow."

Id. at 1347-48, n.63 (Alfred Blumrosen, Twenty Years of Title VII Law: An Overview 13 (April 18, 1985) (unpublished manuscript on file at Harvard Law Library)).

25. 347 U.S. 483 (1954).

26. 42 U.S.C. § 1973(b).

27. Matsuda, *supra* note 21, at 396-97.

military and domestic national security matters, and (2) on societal attitudes towards and actions concerning Asian Americans?[28]

1. Structure of Government/Minority Group Power Relations

Derrick Bell's interest-convergence theory suggests that dominant groups will only concede "rights" to minorities when the exercise of those rights benefits the dominant groups' overall interests.[29] According to this theory, a government is likely to make reparations only at a time and in a manner that furthers society's dominant interests. Those interests are furthered by preserving existing power structures during times of stress.

Does the interest-convergence theory illuminate aspects of redress and reparations? At a minimum, the theory casts an interesting light on certain events and people and raises poignant questions.[30] In most situations, even when a strong moral case for reparations is made, government opposes reparations.[31] Stated practical reasons include inordinate cost

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28. This discussion does not address likely criticisms of those who view race-specific remedial policies and laws as threats to democratic governance. *See* HERITAGE FOUNDATION MANDATE FOR LEADERSHIP: POLICY MANAGEMENT IN A CONSERVATIVE ADMINISTRATION (Charles Heatherly ed., 1981). *See also* Crenshaw, *supra* note 24, at 1336-41 (discussing the "Neoconservative Offensive").

29. Derrick A. Bell Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L.R. 518, 523 (1980) (The "principle of 'interest convergence' provides: the interest of blacks in achieving racial equality will be accommodated only when it converges with the interests of whites"). As an example, Bell observes that Brown v. Board of Education's rejection of the separate-but-equal doctrine served U.S. interests internationally by enabling the U.S. to claim moral high ground in its cold war against communism. Racial remedies may be the "outward manifestations of unspoken and perhaps subconscious judicial conclusions that the remedies, if granted, will secure, advance, or at least not harm societal interests deemed important by middle and upper class whites." *Id.*

30. Professor Matsuda observes:

> Some thoughtful victim group members are inclined to reject reparations because of the political reality that any reparations award will come only when those in power decide it is appropriate. Hayden Burgess, a native Hawaiian nationalist lawyer, suggests that any award of cash reparations is inadequate, for it ignores the Hawaiian's primary need: restoration of the Hawaiian government and removal of the United States presence in Hawaii. Rather than a top-down model of reparations granted by the United States, Burgess prefers negotiations between the Hawaiians and the United States as equals, perhaps mediated by a neutral third party in an international forum.

Matsuda, *supra* note 21, at 396.

31. The U.S.-aided overthrow of the Hawaiian monarchy in 1893 was regarded by many (including former President Grover Cleveland) as an illegal invasion of a sovereign, internationally-recognized country. *See* MELODY K. MACKENZIE, SOVEREIGNTY AND LAND: HONORING THE NATIVE HAWAIIAN CLAIM (1982); Native Hawaiian Study Commission Minority Report (majority report by Republican-appointed commissioners found reparations unwarranted); Blondin, *A Case for Reparations for Native Hawaiians*, 16 HAWAII B.J. 13 (1981); Ramon Lopez-Reyes, *The Demise of the Hawaiian Kingdom: A Psycho-cultural Analysis and Moral Legacy — Something Lost, Something Owed*, 18 HAWAII B.J. 3 (1983); Neil M. Levy, *Native Hawaiian Land Rights*, 63 CAL. L. REV. 848 (1975). The U.S. acquired through annexation in 1898 ownership of substantial amounts of Hawaiian land. The Hawaiian reparations movement has nevertheless faced both tacit and overt U.S. government opposition.

and the impossibility of redressing all historical transgressions against all groups — "if we do it for one group we've got to do it for all, and we can't afford that."[32] Stated legal reasons for government opposition to reparations include the existence of circumstances justifying the transgression, the difficulty of identifying perpetrator and victim groups, the lack of sufficient connection between past wrong and present claim and the difficulty of calculating damages.[33] Indeed, the Reagan administration for a long time opposed reparations to WWII Japanese American internees ostensibly for these practical and legal reasons and vigorously if not bitterly fought to dismiss the reopened *Korematsu* case.

So why did then President Reagan and candidate Bush later acquiesce to reparations legislation? Explanations abound, but none involve a desire to restructure government power. One explanation is that their tepid and belated support was an attempt to temper the anti-civil rights aura of ultra-conservative Republicans to attract moderate voters.[34] An explanation for broader governmental support is that, domestically, in the context of increasingly volatile minority group criticisms about continuing disenfranchisement, reparations afforded decisionmakers an opportunity to point to a model minority that survived and flourished despite hardship[35] — conveying the message that the system works, and things historically wrong are made right. Internationally, reparations enabled decisionmakers to enhance somewhat the United States' image as a country committed to human rights — bolstering an ostensible moral foundation for military incursions abroad, for mediation of Middle East conflicts and for the continuing struggle with the Soviet Union.

From these simplified generalizations emerges a specific question: Has formal governmental redress of group-based injuries resulted in a reshaping of the amorphous structure of government military and national security power over citizens that led to the imprisonment of innocent Americans on account of their race? If the interest-convergence theory is accurate, the answer is probably "very little." If very little restructuring of institutional power has occurred, then reparations may have unforseen ill-effects for Japanese Americans and all minorities. The criticism is not that reparations are insignificant for recipients; the criticism is that they can lead to an "adjustment of individual attitudes" towards the historical injustice of the internment without giving current "consideration to the

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32. Congressperson Bauman opposed creation of the CWRIC because it would mean "many other groups who have suffered at the hands of the Government throughout our 204-year history and even beyond should also have their commission, their investigation, their examination of history with a report issuing forth." 126 CONG. REC. 18,864 (1980), *quoted in* Matsuda, *supra* note 21, at 383-84, n. 251. *See generally* Mary Reiko Osaka, *Japanese-Americans and Central European Jews: A Comparison of Post-War Reparations Problems*, 5 HASTINGS INT'L & COMP. L. REV. 211 (1981).

33. Matsuda, *supra* note 21, at 373-74.

34. Some might say that President Bush revealed his true colors after the election when he unsuccessfully attempted to scuttle funding for reparations payments.

35. The "model minority" label is discussed later in this section.

fundamental realities of power."[36] The "danger lies in the possibility of enabling people to 'feel good' about each other" for the moment, "while leaving undisturbed the attendant social realities" creating the underlying conflict.[37] According to this view, redress and reparations could in the long term "unwittingly be seduced into becoming one more means of social control that attempts to neutralize the need to strive for justice."[38]

Critical legal theory provides support for these views. It highlights the unfulfilled expectations of civil rights laws. Critical theory sharply rejects the view of the ameliorative effect of civil rights laws, challenging the notion of the civil rights movement's steady march toward social equality.[39] It examines the often limited and emphemeral social structural impact of civil rights legislation and court rulings. Legislation needs to be implemented and court pronouncements need to be interpreted and applied. Who implements, interprets and applies? What social and political forces guide the actors and shape their actions? Rights are "indeterminate and contingent"[40] and are often conferred by those in power as "safety valves" to relieve accumulating pressure for fundamental social structural changes.[41] According to this view at the extreme, reparations laws are hegemonic devices employed by those in power to induce consent to existing social and economic relationships, and reflect no more than illusions of social progress.

As Kimberly Crenshaw insightfully argues, critical legal theory's "trashing" of civil rights laws in this manner, especially concerning race, rests on an incomplete if not flawed foundation. It overlooks the paucity of societal mechanisms for countering the devastating impact of racism in society; it overemphasizes "consent" and ignores the effect of coersion and popular consciousness in forms of race-based oppression; and it trivializes the function of civil rights discourse and laws, despite sharp limitations, in contributing to a race-consciousness necessary for addressing questions of power and structural change.[42]

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36. Edmonds, *Beyond Prejudice Reduction*, MCS CONCILLIATION QUARTERLY, Spring 1991, at 15. *See also* Gary Peller, *The Politics of Reconstruction*, 98 HARV. L. REV. 863 (1985) (reviewing BRUCE ACKERMAN, RECONSTRUCTING AMERICAN LAW (1984)).

37. Edmonds, *supra* note 36, at 15 (discussing the limitations of the multicultural conflict resolution concept of "bias reduction").

38. *Id. See generally* Richard Delgado, *The Ethereal Scholar: Does Critical Legal Studies Have What Minorities Want?*, 22 HARV. C.R.-C.L. L. REV. 301 (1987).

39. This reflects a very broad summary of aspects of critical legal studies which represents a complex critique of liberal theory. *See generally* Allan David Freeman, *Legitimizing Racial Discrimination Through Antidiscrimination Law: A Critical Review of Supreme Court Doctrine*, 62 MINN. L. REV. 1049 (1978).

40. *See* Mark Tushnet, *An Essay on Rights*, 62 TEX. L. REV. 1363, 1371 (1984).

41. Delgado, *supra* note 38, at 304 (summarizing and critiquing Critical Legal Studies). For a thorough discussion of critical legal theory *see* MARK KELMAN, A GUIDE TO CRITICAL LEGAL STUDIES (1987); Robert W. Gordon, *New Developments In Legal Theory*, *in* POLITICS OF LAW: A PROGRESSIVE CRITIQUE 281, 286 (David Kairys ed., 1982).

42. Crenshaw, *supra* note 24, at 1382 (referring specifically to "the efforts of Black people to transform their world").

Recent critical race theories[43] acknowledge the considerable limitations of rights discourse and yet find particular value in it. Those theories, discussed later, might be employed to build upon and then recast critical legal theory's view of reparations as illusion. From this perspective, reparations legislation and court rulings in cases such as *Korematsu* do not necessarily or inevitably lead to a restructuring of governmental institutions, a changing of societal attitudes or a transformation of social relationships, and the dangers of illusory progress and co-optation are real. At the same time, reparations claims, and the rights discourse they engender in attempts to harness the power of the state, can and should be appreciated as intensely powerful and calculated political acts that challenge racial assumptions underlying past and present social arrangements. They bear potential for contributing to institutional and attitudinal restructuring in some fashion, under certain circumstances, although they do not do so necessarily or inevitably.

We might thus reframe in an empirical light the question posed earlier: Has reparations for WWII Japanese American internees in practical effect altered the structure of governmental relations with minorities, especially in the context of military and national security matters, or has it enabled society to feel better about itself without addressing issues of domination and oppression, power and injustice?

Consider the following concerning the government's national security power and the interests of minorities.[44] In 1991, during the Gulf War, the

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43. *See infra* notes 69-74 and accompanying text for a more developed discussion.

44. Also consider the following concerning government and minority group relations: In 1989 the U.S. Supreme Court issued a series of opinions markedly restricting minority civil rights. A series of cases slashed minority access to federal courts to challenge discriminatory actions. See City of Richmand v. J.S. Croson Co., 488 U.S. 469 (1989) (applying strict scrutiny standard of review to city's minority contractor set-asides ordinance and holding a generalized finding of discrimination in the construction industry insufficient to justify minority racial quota); Patterson v. McLean Credit Union, 491 U.S. 164 (1989) (declaring racial harassment in employment not actionable under 42 U.S.C. § 1981); Wards Cove Packing Co. v. Atonio, 493 U.S. 802 (1989) (ruling that Title VII plaintiff bears both the burden of proving disparate impact and the burden of disproving the employer's assertion that the adverse employment practice was a business necessity); Lorance v. A.T. & T. Technologies, 490 U.S. 900 (1989) (affirming dismissal of female employees' Title VII claim through a restrictive interpretatation of the statute of limitations period for challenges to discrimnatory seniority systems); Martin v. Wilks, 490 U.S. 755 (1989) (upholding white firefighters' collateral attack of a consent decree resolving admitted fire department discrimination on grounds that the white firefighters were not formal parties to the consent decree litigation).

In 1990 President Bush, speciously alluding to illegal quotas, vetoed congressional legislation aimed at restoring those minority rights. *See* Dick Thornburgh, *Kennedy-Hawkins Bill Would Mandate Hiring by Skin Color*, L.A. DAILY J., June 27, 1990, at 6, col. 3; Agustus Hawkins, *Opponents of Measure Use Scare Tactics in Lieu of Facts*, L.A. DAILY J., June 27, 1990, at 6, col 5; *Bush Rejects Civil Rights Bill*, COURAGE IN THE STRUGGLE FOR JUSTICE AND PEACE, Vol. 6, at 3, Nov./Dec. 1990. One report indicated that the White House was so determined to build political capital among white conservatives and moderates that it has kept that quota controversy alive by scuttling efforts by a group of top corporate executives (the Business Roundtable) to forge a compromise bill with civil rights leaders in 1991. Priscilla Painton, *Quota Quagmire*, TIME, May 27, 1991, at 20, col. 3.

FBI undertook an aggressive campaign of interrogation of Iraqi Americans in the United States, implying by manner and style a presumption of disloyalty by reason of race.[45] In several recent cases, the United States Supreme Court affirmed the government's power to restrict or suspend completely the civil rights of citizens in the interest of national security, without any meaningful showing of necessity. Those cases involved discrimination against gays,[46] women,[47] political speakers[48] and assertedly subversive citizens seeking to travel abroad.[49] The Court's value judgments in those cases, and its deference to unsubstantiated government assertions of necessity, resemble the Court's disastrous approach in *Korematsu* in 1944.[50]

The danger of that approach — the "distortion of the Constitution" to validate unjustifiable harm to the unpopular, according to former Justice Jackson — is illustrated by President Bush's 1989 proposed executive order concerning uniform security clearance procedures for people working with or for the government. The proposed order eliminated due process rights for citizens in many instances. It also authorized revocation of the procedural safeguards that did exist whenever an agency head perceived the safeguards to be "inconsistent with national security interests of the United States."[51] Most significant, the proposed executive order used the mantle of national security to exclude from employment those with so-called exploitable vulnerabilities — targeting gays and other unpopular minorities.[52]

And consider the following specifically concerning the structure of governmental relations with Asians in the United States in the context of military and national security matters. In 1988 the United States Coast Guard embarked on a program of selective enforcement of a prohibition against non-citizen offshore fishermen. The Coast Guard, which never before enforced the 200-year old prohibition, targeted only permanent resident Vietnamese fishermen. The Coast Guard targeted those refugee fishermen only after fielding complaints from competing American fishermen. The Coast Guard justified its selective enforcement policy on national security grounds. The Vietnamese fishermen, however, were not representing foreign fishing fleets and, as permanent residents, were eligible to serve in the United States armed services and even the Coast

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45. *See Dr. Ibrahim Aoude Parallels Arab Americans and AJAs*, LEADING THE WAY, May 1991, at 9, cols. 1-3.

46. Webster v. Doe, 486 U.S. 592 (1988).

47. Rostker v. Goldberg, 453 U.S. 57 (1981).

48. Greer v. Spock, 424 U.S. 828 (1976); United States v. Albertini, 472 U.S. 675 (1985).

49. Regan v. Wald, 468 U.S. 222 (1984).

50. Yamamoto, *supra* note 10, at 30-41 (comparing value judgments underlying the Supreme Court's approaches to national security restrictions of civil liberties). *See also* STEPHEN DYCUS, et al., NATIONAL SECURITY LAW 407-08 (1990).

51. DYCUS, *supra* note 50, at 533 (discussing the Proposed Executive Order Governing Access to Classified Information).

52. *Id.* at 517-18.

Guard. As in the *Korematsu* case, the government offered no evidence of any threat to national security. When the United States Ninth Circuit Court of Appeals heard the Vietnamese fishermen's legal challenge, Judge Noonan observed that the government's position on national security "would open the way for placing aliens 'in concentration camps' and making citizenship a condition of release."[53]

In 1990 Marine officer candidate Bruce Yamashita leveled charges of continuing racism against Japanese Americans in the Armed Services. Specifically, Yamashita charged, and has since supported with independent witness testimony, that Marine training officers directly violated Marine nondiscrimination regulations with impunity. They subjected Yamashita to constant racial taunting and belatedly dismissed him from the program along with several other minority candidates under the pretext of "lack of leadership."[54]

In 1990 the amended Immigration Act responded in part to the perception that "Asians and Latinos have 'overused' the preference system to the detriment of Europeans and others."[55] One of the amended Act's apparent goals was to preserve the racial "balance" in the United States by excluding Asians who altogether comprised three percent of the United States population. Some support for the amendment eerily resembled cries of "yellow peril" in the early 1900s in Hawaii and California — the Asian threat to the country's culture and security — which led to Asian exclusion legislation.[56]

This greatly simplified description of events, of course, paints an incomplete picture. It nevertheless lends general support to the view that reparations for WWII Japanese American internees has not necessarily entailed a fundamental restructuring of governmental relations with Asian Americans particularly, and minorities generally, especially con-

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53. *The Case Against the U.S. Coast Guard*, ASIAN LAW CAUCUS REPORTER, Jan. 1991, at 2.

54. *Bruce Yamashita's Story Could Be About All Asian Americans*, LEADING THE WAY, May 1991, at 4-5, cols. 1-3 (newsletter of Honolulu Chapter, Japanese American Citizens League); HAWAII HERALD, Nov. 2, 1990, at 1.

55. *Congress Passes New Immigration Law*, ASIAN LAW CAUCUS REPORTER, Jan. 1991, at 4.

56. *See* CWRIC REPORT, *supra* note 7, at 28-36 (describing the history of anti-Asian legislation on the west coast).

For apparently similar reasons, the University of California at Berkeley imposed a formal but clandestine ceiling on Asian American admissions. Asian Americans were seen as destroying the predominantly white, racial "balance" of the University. The implicit message: "We can't let in Asian overachievers and maintain affirmative action for other minority groups." *We Shall Not Be Used*, ASIAN LAW CAUCUS REPORTER, July 1990, at 7 (reprint of address by Mari Matsuda). In addition, few Asian-Americans are visible in positions of political and economic leadership. Asian Americans typically are viewed by many as first-rate scientists, engineers and entrepreneurs. They are not viewed as leaders of government and industry. *Not Enough Asian Managers, Says U.S. Commissioner*, PACIFIC CITIZEN, June 14, 1991, at 1 (describing the glass ceiling for Asian Americans).

cerning military matters and governmental assertions of national security power.

2. Attitudes Towards Asian Americans

The complex structure of government/Asian American relations is in part a consequence of government and citizen perceptions of and attitudes towards Asian Americans. Images of "yellow peril" fueled anti-Asian legislation before World War II[57] and undergirded the military's internment decisions. Indeed in 1943 the United States Justice and War Departments argued, without supporting evidence, and the Supreme Court implicitly accepted as fact, that Japanese Americans were a "large, unassimilated, tightly-knit racial group, bound to an enemy nation by strong ties of race, culture, custom and religion."[58] How have those perceptions and attitudes been affected by redress and reparations for Japanese American World War II internees? Of course, no singular view of Asian Americans in the United States exists. There is, however, a continuing and encompassing societal perception of Asian Americans as "different," a popular consciousness that is simultaneously perversely dark and unrealistically bright.

From one perspective, Asian Americans are once again permissible targets. Redress and reparations have atoned for past government sin. Governmental constraints have been lifted. Former President Reagan, President Bush and prominent members of Congress have stoked the fires by repeatedly engaging in Japan-bashing. Their direct focus was competition in the auto industry. Their unspoken message, however, seemed to be that sneaky, unscrupulous Asians were stealing United States business opportunities. Similarly, solicited Japanese investment in the United States met with scorching criticism: Japan is buying Hollywood and gobbling huge chunks of United States real estate — "Japanizing" America.

For these and other reasons, some perceive Asian Americans as America's "punching bag."[59] The perception is that Asian Americans have become a scapegoat for a mainstream America frustrated by a depressed economy, corporate corruption, housing shortages and inadequate public education. Society's ills are blamed on inordinate privileges for minorities. Asian Americans are high enough in profile yet small enough in numbers to make accessible and indefensible targets. According to this view, there extends from the early 1900's through the present an "unbroken

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57. *See supra* note 4.

58. *See* Final Report, Japanese Evacuation from the West Coast, vii (1942) (prepared by General DeWitt, the military commander responsible for the relocation orders, and submitted to the War Department and Justice Departments which in turn submitted it to the United States Supreme Court). *See also*, Brief of the United States, at 11, Hirabayashi, 320 U.S. 81 (1943); Yamamoto, *supra* note 10, at 24, notes 87-88.

59. Yamamoto, *supra* note 10, at 24.

line of poor and working Americans who turn their anger and frustration into hatred of Asian-Americans."[60]

Indeed, we have witnessed an explosion of racial hate messages on university campuses, with students feeling license to derogate minorities. The FBI recently reported a marked increase in race-related violence across the country.[61] We have seen increasing racial violence against Asian Americans, African Americans, Jewish Americans and Hispanic Americans. In North Carolina, New York City, Los Angeles, and Northern California, Asians recently have been the targets of highly publicized racial harassment and violence.[62] Vincent Chin, a Chinese American, was bludgeoned to death by unemployed white auto workers who mistook him for a "Jap." The state criminal justice system imposed no jail time for the convicted murderers because their anger towards Asian Americans, although misplaced, was "understandable."[63]

Asian Americans continue to be perceived by many as "different:" different and competitive threats; different and untrustworthy; different and vulnerable. Reparations without on-going government opposition to continuing stigmatization may highlight if not foster that perception of difference.

Asian Americans are also sometimes perceived as different from other minorities. Redress and reparations tend to highlight that perception. Others might legitimately ask, why no reparations for the government-sanctioned enslavement of African Americans? Why limited reparations for some and no reparations for Native Americans deprived of land and culture? Why no reparations for Native Hawaiians despite the illegal government-assisted overthrow of the Hawaiian monarchy? Why no redress for groups who, unlike most Asian American groups, were "conquered" by the United States and made American under protest?

There appears to be a rift developing between Asian Americans and other minorities. Reports of street clashes between Asian immigrants and African Americans surface regularly.[64] African American leaders omit Asian Americans when mentioning minority groups in the United States. Contributing to the rift is the model minority label hung on, and sometimes willingly accepted by, Asian Americans.

Asian Americans are touted by government and mainstream America, somewhat schizophrenically, as the "model minority." Model minority

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60. *Id.*

61. *Hate Violence in the United States,* FBI LAW ENFORCEMENT BULLETIN, Jan. 1991, at 14.

62. *Anti-Asian Violence,* Oversight Hearing, Subcommittee on Civil and Constitutional Rights, Committee on the Judiciary of the House of Representatives, Nov. 10, 1987; *Anti-Asian Violence Escalates,* ASIAN LAW CAUCUS REPORTER, Jan. 1991, at 5.

63. *See Detroit Asian-Americans Protest Lenient Penalties for Murder,* NEW YORK TIMES, April 26, 1983, at A16, cols. 1-4.

64. Spike Lee's film "Do the Right Thing" sharply portrays one type of brewing inner city conflict between neighborhood immigrant Asian grocers and African Americans.

status is fraught with hidden meaning. It clashes with contemporaneous perceptions of untrustworthiness and threatening competition. The inconsistency is illuminated by the interest-convergence theory and by aspects of labeling theory.[65] Those assigning the label do so, even if subconciously, for self-interested reasons, sometimes masking an exclusionary purpose with a seemingly benign attribution of difference. The model minority label conveys a silent message: Japanese Americans during World War II and all Asian Americans historically suffered discrimination; Asian Americans put their collective noses to the grindstone, overcame hardship without government aid and became model "minority" citizens. Why can't other minority groups do the same; if they did, they'd be rewarded too.

The model minority label thus can foster an illusion of power restructuring in several ways. First, the label minimizes for Japanese Americans the deep-seated harm inflicted by the government's abuse of its military and national security power. Second, it masks the problems of poor Asian communities and continuing discrimination against Asians.[66] Third, it excuses government from acting affirmatively to prevent subordination of and discrimination against minorities, since minority groups are handling things on their own. Finally, it falsely privileges Asian Americans at the expense of others, driving a wedge between Asian Americans and other minority groups.[67] Government reparations limited to Japanese American WWII internees tends to highlight, and perhaps in some ways exacerbate, a potential rift between Asian Americans and other minority groups.[68]

IV. LOOKING AHEAD

This essay has outlined in simplified fashion salutary views, some perhaps overly bright, and critical views, some perhaps overly dark. These views point to differing, and in important ways conflicting, social meanings of reparations.

It is not enough, however, to say that people differ, that their situations differ and that understandably observer viewpoints differ. In looking ahead we should ask: What meanings might we seek to construct concerning reparations for Japanese Americans to transcend these conflicting views and to enhance future efforts at restructuring public and private

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65. MINOW, *supra* note 3, at 175-177 (describing labeling theory and its criticisms and variations).

66. *See supra* notes 59-63 and accompanying text.

67. Professor Matsuda describes her "fear that Asian Americans are in danger of becoming the racial bourgeoisie," reinforcing a racial hierarchy with white on top, black at bottom and yellow in the middle. *We Shall Not Be Used*, *supra* note 56, at 5.

68. That rift does not, however, speak to the inappropriateness of reparations. It speaks instead to the inappropriateness of governmental silence and inaction in the face of grievous historical injustice inflicted by government upon other minority groups in the United States.

institutions and changing societal attitudes to promote citizen freedom from governmental abuses of power?

As indicated earlier, the generally-held assumptions about the inevitable social structural benefit of civil rights laws are unrealistically bright. They ignore issues of differential power in the interpretation and enforcement of those rights. At the same time, the sharply critical views of civil rights laws trivialize the personally transformative aspects of reparations programs practically experienced by many and the politicizing impact of formal challenges to entrenched power reflected in civil rights claims. How then are we to assess the values of and attribute meanings to reparations laws and programs? Recent scholarship on race and rights addresses the multiple and conflicting potential and limitations of civil rights laws.[69] It acknowledges that rights recognized by legislation and court rulings often have limited effect on existing social arrangements, that rights discourse can create illusions of progress and that the pursuit of rights can divert precious psychic and financial capital away from other means of addressing pressing concerns. It also acknowledges that minorities have pursued civil rights to some advantage,[70] even though advantage is not defined in traditional terms, criticizing critical theories of rights that ignore the pervasive effect of racism in America[71] and the paucity of vehicles and fora for those racially subordinated to develop group identity, communicate group voice and challenge institutionalized power.[72] Some observe in minorities a dual consciousness about their experiences and rights that hints at transendence.[73] Others perceive legal rights, with distinct limitations, not as immutable objects but as "processes of communitcation and meaning-making."[74] All look beyond the existence, or

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69. *See* Crenshaw, *supra* note 24, at 1335 ("The civil rights community must come to terms with the fact that anti-discrimination discourse is fundamentally ambiguous and can accomodate conservative as well as liberal views of race and equality. This dilemma suggests that the civil rights constituency cannot afford to view anti-discrimination doctrine as a permanent pronouncement of society's committment to ending racial subordination."). For critical race theory scholarship advancing essentially this view, see DERRICK BELL, AND WE ARE NOT SAVED (1987); P. WILLIAMS, THE ALCHEMY OF RACE AND RIGHTS (1991); R. WILLIAMS, THE AMERICAN INDIAN IN WESTERN LEGAL THOUGHT (1990); Charles Lawrence, *The Id, the Ego and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317 (1987); Mari J. Matsuda, *Voices of America: Accent, Anti-discrimination Law, and a Jurisprudence for the Last Reconstruction*, 100 YALE L. REV. 1329 (1991).

70. *See* Robin D. Barnes, *Race Consciousness: The Thematic Content of Racial Distinctiveness in Critical Race Scholarship*, 103 HARV. L. REV. 1864, 1868 (1990) ("although conceding that the use of rights discourse may prove 'contradictory, indeterminate, reified and marginally decisive,'. . . for people of color, particularly African-Americans, the symbolic function of rights has served as a formal sanction against invidious treatment and as a tool for empowerment").

71. Crenshaw, *supra* note 24, at 1335.

72. *See* Eric Yamamoto, *Efficiency's Threat to the Value of Accessible Courts for Minorities*, 25 HARV. C.R.-C.L. L. REV. 341 (evaluating rights claims in terms of traditional and critically evolving values of process).

73. Matsuda, *supra* note 21, at 341; Patricia J. Williams, *Alchemical Notes: Reconstructing Ideals from Deconstructed Rights*, 22 HARV. C.R.-C.L. L. REV. 401 (1987).

74. Martha Minow, *Interpreting Rights: An Essay for Robert Cover*, 96 YALE L. J.

achievement, of rights as "laws-on-the-books." All, to some extent, acknowledge dynamic processes connected to but extending beyond the "law" and their potential for contributing to social structural change.

From this perpsective, if a reparations law is seen as the end, then illusions of change will likely be fostered. If government, mainstream America and Asian Americans choose to embrace singularly the salutary views of reparations described earlier, then little fundamental change will occur in the structure, operation and output of policy-making bodies, bureaucracies and businesses. Reparations may come to mean part redress for specific civil rights violations and part buy-out, remedying harm for identifiable past injuries for some while perpetuating the military and national security power structures and societal attitudes that gave rise to those group-based injuries.

Also from this perspective, if reparations laws are sharply criticized as merely a tool of the powerful to perpetuate existing power arrangements, and reparations efforts and pursuit of similar laws are abandoned, then something of particular value will be foresaken.

The meaning of reparations may transcend these colliding salutary and critical views if reparations laws are viewed as part of larger on-going processes rather than as the end in themselves. Reparations for WWII Japanese American internees may acquire special meaning domestically and internationally if Asian Americans critically self-assess their model minority status, vowing not to be used.[75] If they and others scrutinize and challenge government exercises of national security power that restrict civil liberties, especially the freedoms of minorities, and if they activate political organizations and employ lobbying, media and legal skills developed during the reparations drive, they can join in addressing broad-based problems affecting all minorities in the United States and, to some extent, throughout the world. The politicization of former internees and larger segments of the public, the development of organizations for political education and action and the creation of inter-ethnic group links are salient aspects of the recently completed reparations process. They hold promise beyond the particular Japanese American WWII internees' reparations effort. They hold potential for reassessing values, reaffirming political commitments and pushing for reallocation of decisional power not only in legislatures, courts and bureaucracies, but also in schools, workplaces and homes.

Cast in this light, two insights emerge that enhance our framework for evaluating reparations laws and programs. One is normative: that redress and reparations by government must result over time in a restructuring of the institutions and relationships that gave rise to the civil or human rights violation. Otherwise, as a philosophical and practical matter, a reparations program cannot be (1) effective in addressing root

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1860, 1862 (1987); Yamamoto, *supra* note 72, at 408-09.

75. *See* Matsuda, *We Shall Not Be Used*, *supra* note 56, at 7.

problems of government power abuse and citizen freedom, and especially minority group freedom, (2) integrated into a country's moral foundation for responding to domestic problems or for urging other countries to restructure government-citizen relationships, or (3) offered as a meaningful model for the United States and other countries concerned about justice in redressing past wrongs committed against their own people.

A second insight is descriptive: restructuring those institutions and changing societal attitudes will not flow naturally and inevitably from a government reparations program for a particular group. Government and dominant private interests, it appears, will cast redress and reparations in ways that tend to perpetuate existing power structures and dominant group/minority group relationships. Those benefitting from reparations must draw upon the political insights and commitments derived from their particular reparations process and join with others to push for bureaucratic, legal and attitudinal restructuring. Their efforts must extend beyond their own reparations.

Such an evolving meaning of reparations might transcend colliding salutary and critical views. It is a meaning that brings to mind Frank Newman's inversion of a popular phrase — "thinking locally and acting globally."[76] Think locally to grasp the experiential lessons of power and value learned throughout the hands-on process of the reparations drive.[77] Act globally to link with others different in culture or race but similar in efforts to restructure institutions.

Whether Asian Americans collectively will participate in that restructuring, whether they will choose a path connecting Asian Americans with others, or whether they will choose the separatist path of a seemingly healed model minority, are open questions. Of course, Asian Americans are not a singular, homogeneous group. Several paths will likely be followed. But will one path predominate in the hearts and minds of Asian Americans and in the perceptions of other minorities, of government decisionmakers, of mainstream America? No clear answer emerges.

Yet consider the following. The permanent resident Vietnamese fishermen selectively prohibited from offshore fishing by the United States Coast Guard, ostensibly for national security reasons, recently achieved a Congressional repeal of the underlying 200-year-old prohibition. They did so through strong lobbying by and support from political and legal networks developed during the Japanese-American reparations process. These broad networks also endeavored to reveal and challenge the anti-Asian "yellow peril" aspects of the amended Immigration Act of 1990. They spoke out against the FBI interrogation program launched against

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76. Frank Newman, former Justice of the California Supreme Court, inverted the popular phrase, "think globally, act locally," during a group discussion at a Restructuring for Peace Conference sponsored by the University of Hawaii's Spark Matsunaga Institute for Peace in June, 1991.

77. *See generally* Yamamoto, *supra* note 72.

Iraqi-Americans during the Gulf War. They intervened in the Yamashita Marine racial harassment case, coordinating protests that resulted in the reopening and publicizing of the military investigation. They joined in protest of the President's proposed, and later withdrawn, security clearance executive order. They also helped explain to local prosecutors the racial underpinnings of anti-Asian violence, resulting recently in criminal trials and public understandings markedly different from those connected with Vincent Chin's murder a few years earlier.

On a broader scale, Asian American groups joined with the NAACP and other minority groups to push for the Civil Rights legislation of 1990 and 1991 to counteract the effects of recent Supreme Court decisions. They joined in the challenging the qualifications and outlook of Supreme Court nominee Clarence Thomas. They also joined in the efforts of African American leaders to mediate increasingly intense neighborhood conflicts between Asian immigrants and African Americans. They are lending support to Native Hawaiian reparation's efforts.

These efforts, of course, do not mean that Asian Americans collectively have chosen one path over the other. Asian Americans speak in many voices and act in disparate ways. Indeed, particularized experiences can lead to perilous generalizations. Some Asian Americans embrace model minority status, others are concerned with self-survival or group advancement. These efforts do indicate, however, that some of the political organizations, insights and commitments derived from the process of struggling for redress and reparations have far from withered. They hint at an evolving, contingent social meaning of reparations with potential for transcending colliding salutary and critical views, a meaning linked to continuing efforts toward institutional and attitudinal restructuring.